IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9165 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GRUH FINANCE LTD - Petitioner(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
SINGHI & CO for Petitioner(s) : 1,
Mr.Gori, AGP, for Respondent(s) : ,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 20/07/2006

ORAL JUDGMENT

Rule. Learned AGP Mr.Gori waives service of notice of rule on behalf of respondents.

In the present petition, petitioner-financial institution has challenged the communication dated 3rd January, 2006 passed by Respondent No.2 produced at Annexure-F to the petition. The petitioner has also challenged the check list given by respondent No.2 for the purpose of enabling the petitioner to recover its dues with the help of State machinery.

The issues arising in this petition are with respect to reimbursement to be made to the Government for the assistance rendered by the Government machinery for the purpose of recovery of dues of financial institutions in terms of Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (herein after referred to as the said Act).

The respondent No.2 Collector and District Magistrate, Rajkot by his impugned communication directed the petitioner to deposit with the Government 5% of the amount sought to be recovered from the debtor.

The second aspect of the grievance of the

petitioner is regarding condition No.25 in the check list given by the respondent No.2 in which an undertaking is asked for to the effect that upon recovery of the amount, 5% shall be deposited with the Government.

In response to the notice issued by this Court, learned AGP Mr.Gori appearing for the respondent under the instruction of Shri Tejani, Joint Secretary, Finance Department, stated before the Court that the circular referred to in the impugned communication Annexure-F would not apply in the present case of recovery under Section 14 of the said Act. He, therefore, submitted that the assistance of the concerned respondent is not sustainable.

Under these circumstances, the impugned communication dated 3rd January, 2006 is quashed. With that, the condition No.25 in the check list also stands redundant.

With these directions petition is disposed of.

Rule made absolute. No order as to costs.

(Akil Kureshi, J.)

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